

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

AUG 11 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HAL FREDERICK BURFORD,

Defendant - Appellant.

No. 07-30277

D.C. No. CR-06-00102-TMB

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Alaska  
Timothy M. Burgess, District Judge, Presiding

Argued and Submitted August 4, 2008  
Anchorage, Alaska

Before: D.W. NELSON, TASHIMA and FISHER, Circuit Judges.

H.F. Burford Sr. (“Burford”) appeals the district court’s denial of his motion to suppress. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

“Before embarking on the exercise of determining whether the affidavit supported probable cause, we may proceed directly to the issue of whether there was good faith reliance” upon an objectively reasonable search warrant. *United*

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<sup>\*</sup>This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

*States v. Crews*, 502 F.3d 1130, 1136 (9th Cir. 2007). “This ends the inquiry without having to belabor the issue of whether the affidavit stated probable cause.”

*Id.* Considering, as we must, the totality of the circumstances, there is at least a colorable argument that Officer Heieren’s affidavit supported a finding of probable cause here. *See United States v. Arvizu*, 534 U.S. 266, 277 (2002); *Crews*, 502 F.3d at 1136. Burford did not establish a substantial showing of deliberate falsehood or of reckless disregard for the truth that would prohibit the application of the good faith exception under *Franks v. Delaware*, 438 U.S. 156 (1978). *See United States v. Chavez-Miranda*, 306 F.3d 973, 979 (9th Cir. 2002).

Consequently, admission of the evidence under the good faith exception is “particularly appropriate in the instant case because the legal question of whether probable cause existed is a close one, while the objective reasonableness of the officer[’s] reliance on the warrant is more straightforward.” *United States v. Huggins*, 229 F.3d 1039, 1047 (9th Cir. 2002).

**AFFIRMED.**